AF 2614

[2207/6019]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Jay H. CONNELLY et al.	Examiner: T. Tran
For: SYSTEM AND METHOD FOR CONTROLLING AN ELECTRONIC DEVICE	
Filed: February 18, 1999	Art Unit: 2614
Serial No.: 09/250,940	

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21 OCTOBER 2003

Michelle Carniaux (Reg. No. 36,098)

APPEAL BRIEF TRANSMITTAL

SIR:

Transmitted herewith for filing in the above-identified patent application please find an Appeal Brief pursuant to 37 C.F.R. § 1.192(a), in triplicate.

Please charge the Appeal Brief fee of $330.00, and any other fees that may be required in connection with this communication to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**. A duplicate of this paper is attached for this purpose.

Respectfully submitted,

Dated: 21 OCTOBER 2003

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Atty's Signature

MICHELLE M. CARNIAUX
KENYON & KENYON

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APPEAL BRIEF PURSUANT TO 37 C.F.R. § 1.192(a)

SIR:

On August 25, 2003, Applicants mailed a Notice of Appeal from the final rejection of claims 2-16, 18-27, 29-36, 38 and 41-48 contained in the Final Office Action issued by the U.S. Patent and Trademark Office (the "PTO") on April 23, 2003 in the above-identified patent application.

In accordance with 37 C.F.R. § 1.192(a), this brief is submitted in triplicate in support of the appeal of the final rejection of claims 2-16, 18-27, 29-36, 38 and 41-48. For at least the reasons set forth below, the final rejection of claims 2-16, 18-27, 29-36, 38 and 41-48 should be reversed.

1. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Intel Corporation, Santa Clara, CA. Intel is the assignee of the entire right, title and interest in the present application.

2. RELATED APPEALS AND INTERFERENCES

There are no interferences or other appeals related to the present application.

3. STATUS OF CLAIMS

Claims 2-15, 27, 29-33, 38, 41, and 43-48 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 16, 18-26 and 35-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,057,874 to Michaud (the "Michaud patent").

Appellants appeal from the final rejection of claims 2-16, 18-27, 29-36, 38 and 41-48. A copy of all of the pending claims is attached hereto in the Appendix.

4. STATUS OF AMENDMENTS

An Amendment After Final was submitted in the present application. In the Advisory Action dated June 4, 2003, the Examiner indicated that the Amendment After Final would be entered.

5. SUMMARY OF THE INVENTION

In conventional television systems, a TV producer, for example, has limited options as regards producing a TV program because a television set processes conventional television signals which include only video and sound signals. Specification, page 2, lines 19-23. For this type of system, the TV producer cannot generated other signals to produce, e.g., special effects during broadcasting of the TV program because such other signals cannot be transmitted and executed simultaneously with video and audio signals. Specification, page 2, lines 23-27. For instance, it would be desirable to generate, e.g., signals that would control lights in a TV viewer's room. Specification, page 2, lines 27-29. Also, TV programs are periodically interrupted for an advertisement. Specification, page 2, lines 29-30. The advertisement cannot be shown simultaneously (e.g., on another device) with the TV program. Specification, page 2, lines 29-31. Thus, in accordance with the present invention, other signals are transmitted together with

the TV signal for, e.g., controlling other devices. Specification, page 2, lines 32-34.

In one example embodiment of the present, content providers can offer new services over a network. For example, a user may sample, buy and download, e.g., a particular produce while watching the TV program. Specification, page 10, lines 11-14. Also, a user may receive stock information which watching a business report. Specification, page 10, lines 19-22. A user may "attend" interactive classes while simultaneously receiving handouts. Specification, page 10, lines 22-23. A VCR may be controlled to record a particular TV program. Specification, page 10, lines 29-30.

An example embodiment of the present invention is illustrated in, for example, Fig. 2 of the present application. In this embodiment, a first device 100, e.g., on the transmission side, codes data signals and command signals (e.g., using data coder 120 and command coder 140). Specification, page 5, lines 23-26. The data signals may be, e.g., a TV program, while the command signals may be, e.g., signals for controlling the intensity of lights in the room during the TV program. Specification, page 5, lines 5-12. First device 100 also includes a modulator 150 which combines these signal into a transmission signal, and a transmitter 160 for transmitting the signal. Specification, page 5, lines 26-30.Fig. 3 shows an embodiment of a second device 200 which receives the transmitted signals. In this embodiment, the second device 200 separates the received signal into first and second signals via a demodulator 210. Specification, page 6, lines 3-6. The second device also decodes the first and second signals via, e.g., first and second decoders 220 and 240. Specification, page 6, lines 3-9. The data signal (e.g., the decoded first signal) is then transmitted to an output device 25 (e.g., a television set) and the command signal (e.g., the decoded second signal) is transmitted to a target device (e.g., a light control), so that the target device may be controlled while the output device renders the data signals. Specification, page 6, lines 9-17.

6. ISSUES

A. Whether claims 2-15, 27, 29-33, 38, 41 and 43-48, which stand rejected under 35 U.S.C. § 112, first paragraph, were described, at the time the application was filed, in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention.

B. Whether claims 16, 18-26 and 34-36, which stand rejected under 35 U.S.C. § 102(e), are patentable over the Michaud patent.

7. GROUPING OF CLAIMS

Issue A:

Group I: 27, 29-33, and 38;

Group II: 2-12, 41, 43, and 44;

Group III: 45-48; and

Group IV: 13-15

With respect to Issue A, it is respectfully submitted, the claims within each group stand or fall with the other claims of that group. However, the claims of each group do not stand or fall with the claims of any other group.

Issue B:

Group I: Claims 16, 18-26, and 34-36.

With respect to Issue B, the claims of Group I stand or fall together.

8. ARGUMENTS

A. Issue A

1. Group I

Claims 27, 29-33, and 38 stand rejected under 35 U.S.C. § 112, first paragraph because the Examiner believes that a particular feature of these claims is not described in the Specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventor has possession of the claimed invention. In particular, the Examiner apparently believes that the feature "providing a command signal and a data signal to a first device, the command signal being associated with the data signal," as recited in, e.g., claims 27 and 38, violates 35 U.S.C. § 112, first paragraph. For at least the following reasons, this rejection should be reversed.

Respectfully, the Specification (as originally filed) describes several examples of the

command signal being associated with the data signal. As described throughout the specification, in example embodiments of the present invention, the command signal control, e.g., a target device while the data signal is output or rendered. For example, on page 5, lines 5-12, the Specification describes that the command signal can be used to control a home appliance while the data signal is output. In one example, the data signal may be displayed as a TV program on a television set while the command signal controls the intensity of the lights in the room in which the TV program is being viewed. Specification, page 5, lines 8-12. In another example, a user may receive stock information via a download (e.g., via a command signal) while watching a business report (e.g., via the data signal). Specification, page 5, lines 19-22. Accordingly, the data signals and the control signals are ***associated*** with one another so that while the data signals are being output (e.g., on a TV), the control signals can control a target device (e.g., a light control, a computer to download information, etc.). In one example embodiment, the command signal is encoded in the VBI of a television signal, and then transmitted. See, e.g., Specification, page 8, line 34 - page 9, line 7. The command signal may be transmitted using an in-band or out-of-band procedure. See, e.g., Specification, page 9, lines 3-5. In another example embodiment, the command signal may be sent in packets which include a pointer to point to a corresponding data packet. See, e.g., Specification, page 8, lines 20-22. In another embodiment, the command signal is attached to the data packets. See, e.g., page 9, lines 25-28. Accordingly, the Specification describes several examples of physical and/or logical association between the data signals and the control signals.

For at least these reasons, it is respectfully submitted that the feature "providing a command signal and a data signal to a first device, the command signal being associated with the data signal," as recited in, e.g., claims 27 and 38, is described in the Specification in such a way as to convey to a person of ordinary skill in the art that, at the time the application was filed, the inventors had possession of the invention. Thus, the rejection of claims 27, 29-33, and 38 under 35 U.S.C. § 112, first paragraph should be reversed.

II. <u>Group II</u>

Claims 2-12, 41, 43, and 44 stand rejected under 35 U.S.C. § 112, first paragraph, because the Examiner believes that a particular feature of claim 41 is not described

not described in the specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventor has possession of the claimed invention. In particular, the Examiner believes that the feature "a command device generating a command signal associated with the data signal," as recited in claim 41, violates 35 U.S.C. § 112, first paragraph. For at least the following reasons, this rejection should be reversed.

As discussed above in connection with Group I, several examples of command signals associated with data signals are described. In example embodiments, command signals that are to control a target device while the data signals are being displayed, are generated by a command device. See, e.g., Specification, page 5, lines 5-12; page 10, lines 11-30. In these examples, the data signals and the command signals are logically or physically linked prior to being transmitted to a second device. See, e.g., Specification, page 8, line 34 - page 9, line 7, page 8, lines 20-22, page 9, lines 25-28.

For at least these reasons, it is respectfully submitted that the feature "a command device generating a command signal associated with the data signal," as recited in claim 41, is described in the Specification in such a way as to convey to a person of ordinary skill in the art that, at the time the application was filed, the inventors had possession of the invention. Accordingly, the rejection of claims 2-12, 41, 43, and 44 should be reversed.

III. Group III

Claims 45-48 stand rejected under 35 U.S.C. § 112, first paragraph, because the Examiner believes that a feature of claim 45, i.e., "receiving a command signal, the command signal including commands, associated with the content, for controlling the target device," is not described in the specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventor has possession of the claimed invention. For at least the following reasons, this rejection of claims 45-48 should be reversed.

Respectfully, the Specification describes several examples of commands being associated with content of a data signal. In one example embodiment, the commands are for controlling the intensity of lights during a television program (e.g., the content of the data signal). See, e.g., Specification, page 5, lines 5-12. In another embodiment, the commands may relate to downloading a stock report, while the use watches a business report (e.g., the content of the

data signal. See, e.g., Specification, page 10, lines 19-22. These are just two of the examples described in the Specification. As described above in connection with Groups II and III, the transmitted data signals and the command signals are typically either logically or physically linked. See, e.g., Specification, page 8, line 34 - page 9, line 7, page 8, lines 20-22, page 9, lines 25-28.

For at least the foregoing reasons, it is submitted that the feature "receiving a command signal, the command signal including commands, associated with the content, for controlling the target device," as recited in claim 45, is described in the specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventors has possession of the claimed invention. Thus, the rejection of claims 45-48 should be withdrawn.

IV. Group IV

Claims 13-15 stand rejected under 35 U.S.C. § 112, first paragraph, because the Examiner believes that the feature "wherein data in the command signal and data in the data signal are linked so that when the data signal is used at a receiving end of the transmission signal, the at least one target device is controlled as a function of the command signal while an output device at the receiving end provides an output as a function of the data signal," as recited in claim 13, is not described in the specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventor has possession of the claimed invention. For at least the following reasons, this rejection of claims 13-15 should be reversed.

As discussed above, the Specification, as originally filed, describes several examples of how the command signal and the data signals are linked so that when the data signal is used (e.g., a television program is rendered), a target device (e.g., a light) is controlled while the output device provides an output as a function of the data signal. In particular, the Specification describes linking the signals logically and linking the signals physically. In one example embodiment, the command signal is encoded in the VBI of a television signal, and then transmitted. See, e.g., Specification, page 8, line 34 - page 9, line 7. The command signal may be transmitted using an in-band or out-of-band procedure. See, e.g., Specification, page 9, lines 3-5. In another example embodiment, the command signal may be sent in packets which

includes a pointer to point to a corresponding data packet. See, e.g., Specification, page 8, lines 20-22. In another embodiment, the command signal is attached to the data packets. See, e.g., page 9, lines 25-28. Accordingly, the Specification describes several examples of linking.

For at least these reasons, it is respectfully submitted that the feature "wherein data in the command signal and data in the data signal are linked so that when the data signal is used at a receiving end of the transmission signal, the at least one target device is controlled as a function of the command signal while an output device at the receiving end provides an output as a function of the data signal," as recited in claim 13, is described in the specification so as to reasonably convey to a person of skill in the art that, at the time the application was filed, the inventor has possession of the claimed invention. Accordingly, the rejection of claims 13-15 should be reversed.

B. Issue B

Group I

Claims 16, 18-26 and 34-36 stand rejected under 35 U.S.C. § 102(e) as anticipated by the Michaud patent. It is respectfully submitted that Michaud does not anticipate any of claims 16, 18-26 and 34-36, for at least the following reasons.

The Michaud patent purportedly relates to an infrared blaster control system for cable television networks, in which selective VCR control codes are transmitted from a headend to a user's settop terminal. These VCR control codes, which are generated only in accordance with particular types of VCRs, are stored within the settop terminal, so that at some future time, the settop terminal may properly control a VCR in response to signals transmitted by an infrared remote control (e.g., under control of a user).

Claim 16 recites the following:

> 16. A control device of a system, the system controlling at least one target device, comprising:
>
> a receiver receiving a transmission signal;
>
> a demodulator extracting a first signal and a second signal from the transmission signal;
>
> a command decoder decoding the first signal into the command signal;
>
> a data decoder decoding a data signal from the second signal; and
>
> a data transmitter receiving the data signal and providing the data signal to an output device;

wherein the at least one target device is controlled as a function of the command signal while an output device provides an output as a function of the data signal.

Claims 18-26 depend from claim 16. As discussed above, in the Michaud patent, the VCR codes are received and stored in a settop box. These VCR codes are not used to control a target device ***while*** an output device provides an output (e.g., the television) as a function of the program within which the VCR codes are sent. Accordingly, the Michaud patent does not described "wherein the at least one target device is controlled as a function of the command signal while an output device provides an output as a function of the data signal," as recited in claim 16. (Appellants further note that the dictionary definition of "while" is "during the time that" or "at the same time as". (See, e.g., http://dictionary.cambridge.org).

Claim 34 recites the following:

34. A method for controlling at least one target device, comprising:
(a) obtaining a first address and a second address from a first device;
(b) providing the first and second addresses to a command device;
(c) providing a message, located at the first address to the first device using the command device, the message including the second address;
(d) transmitting the message, located at the first address, to a second device;
(e) extracting the second address from the message using the second device;
(f) storing the second address using a memory unit;
(g) providing a command signal and a data signal to the first device;
(h) transmitting the command signal, located at the second address, to the second device;
(i) controlling the at least one target device using the command signal;
(j) transmitting the data signal to the second device;
(k) providing the data signal to an output device by the second device;
(j) providing by the output device an output as a function of the data signal while the at least one target device is controlled using the command signal.

Claims 35 and 36 depend from claim 34.

As discussed above, in the Michaud patent, the transmitted VCR codes appear to be independent from the programs. Accordingly, the Michaud patent does not describe an output device providing an output as a function of a data signal ***while*** the VCR is controlled

using VCR codes using commands associated with the data signal (see, e.g., step (j)) of claim 34).

In view of the foregoing, it is respectfully submitted that the Michaud patent does not anticipate any of claims 16, 18-26 and 34-36. Reversal of the rejection of claims 16, 18-26 and 34-36 is, therefore, requested.

9. CONCLUSION

For at least the reasons indicated above, Appellants respectfully submit that the art of record does not anticipate Appellants' invention as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the invention recited in the claims of the present application is new, non-obvious and useful. Reversal of the Examiner's rejections of the claims is therefore respectfully requested.

Respectfully submitted,

Dated: 2 1 0 4 2007

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APPENDIX

Claim 1 (Canceled)

2. The system according to claim 41, wherein the data signal includes at least one of a video signal, an audio signal and an information signal.

3. The system according to claim 41, wherein the output device includes at least one of a television set, a display device, an audio device and a data processor.

4. The system according to claim 41, wherein the at least one target device includes at least one of a light control device, a climate control device, a computer, a printer, a display device, an audio system, a telephone, a television set, a toy, a motorized device, a controllable device, a home appliance control device.

5. The system according to claim 41, further comprising:

a network arrangement facilitating a transmission of the transmission signal from the first device to the second device.

6. The system according to claim 5, wherein the network arrangement includes at least one of a television broadcast system, a communication network, a satellite network, a cable network and a telephone network.

7. The system according to claim 41, wherein the transmission signal is in one of an analog format and a digital format.

8. The system according to claim 7, wherein if the transmission signal is in the analog format, the command signal is inserted by the first device into a predetermined portion of the data signal and the command signal is extracted by the second device from the predetermined portion.

9. The system according to claim 8, wherein the predetermined portion is a vertical blanking intervals portion.

10. The system according to claim 7, wherein if the transmission signal is in the digital format, the command signal is attached to a data packet of the transmission signal by the first device, the data packet including the data signal, and the command signal is extracted from the data packet using the second device.

11. The system according to claim 7, wherein if the transmission signal is in the digital format, the command signal is transmitted using a command packet by the first device, the command packet corresponding to a data packet including the data signal, and the command signal is extracted from the command packet using the second device.

12. The system according to claim 1, wherein at least one of the second device and the at least one target device is controlled as a function of the command signal.

13. A generating device of a system for providing a transmission signal, the system controlling at least one target device, comprising:

a command receiver receiving a command signal for use in controlling the at least one target device, the command signal being received from a command device;

a command coder converting the command signal into a first signal, the command coder being coupled to the command receiver;

a data receiver receiving a data signal from an input device; and

a data coder converting the data signal into a second signal, the data coder being coupled to the data receiver;

a modulator coupled to the command and data coders and generating the transmission signal using the first and second signals; and

a transmitter coupled to the modulator and transmitting the transmission signal, wherein data in the command signal and data in the data signal are linked so that when the data signal is used at a receiving end of the transmission signal, the at least one target device is controlled as a function of the command signal while an output device at the receiving end provides an output as a function of the data signal.

14. The generating device according to claim 13, wherein the at least one target device is controlled as a function of the control signal.

15. The generating device according to claim 13, further comprising:

a controller facilitating generation of the transmission signal; and

a memory unit coupled to the controller and storing the transmission signal.

16. A control device of a system, the system controlling at least one target device, comprising:

a receiver receiving a transmission signal;

a demodulator extracting a first signal and a second signal from the transmission signal;

a command decoder decoding the first signal into the command signal;

a data decoder decoding a data signal from the second signal; and

a data transmitter receiving the data signal and providing the data signal to an output device;

wherein the at least one target device is controlled as a function of the command signal while an output device provides an output as a function of the data signal.

Claim 17 (Canceled)

18. The control device according to claim 16, further comprising:

a command dispatcher providing the command signal to a corresponding target device.

19. The control device according to claim 16, further comprising:

a controller generating a control signal using the command signal to control the at least one target device; and

a memory unit coupled to the controller and storing the command signal.

20. The control device according to claim 19, further comprising:

a filtering device coupled to the controller, the filtering device controlling and selecting the command signal as a function of predetermined variables.

21. The control device according to claim 20, wherein the filtering device is implemented as a software application, the software application being stored in the memory unit.

22. The control device according to claim 20, wherein the predetermined variables are adjusted according to a predetermined procedure.

23. The control device according to claim 16, wherein the command transmitter provides the command signal to the output device.

24. The control device according to claim 20, further comprising:

a transmitting device transmitting a data to a predetermined device, the data being provided by at least one of the filtering device and the at least one target device.

25. The control device according to claim 24, wherein the transmitting device includes a modem.

26. The control device according to claim 19, wherein the predetermined variables include a profile of a user.

27. A method for controlling at least one target device, comprising:

(a) providing a command signal and a data signal to a first device, the command signal being associated with the data signal;

(b) converting the command and data signals to a transmission signal using the first device;

(c) transmitting the transmission signal to a second device;

(d) extracting the command signal from the transmission signal using the second device;

(e) controlling the at least one target device as a function of the command signal;

(f) extracting the data signal from the transmission signal using the second device; and

(g) providing the data signal to an output device, the output device providing an output as a function of the data signal while the at least one target device is controlled as a function of the command signal associated with the data signal.

Claim 28 (Canceled)

29. The method according to claim 27, further comprising the step of:

(h) controlling at least one of the second device and the output device as a function of the command signal.

30. The method according to claim 27, further comprising the step of:

(i) controlling the command signal as a function of predetermined variables using a filtering device.

31. The method according to claim 27, wherein the step (b) includes a substep of inserting the command signal into a vertical blanking interval portion of the data signal and wherein the step (d) includes a substep of extraction the command signal from the vertical blanking interval portion.

32. The method according to claim 31, wherein the command signal is transmitted using one of an in-band procedure and an out-of-band procedure.

33. The method according to claim 27, wherein the step (b) includes a substep of attaching the command signal to a data packet of the transmission signal and wherein the step (d) includes a substep of extraction the command signal from the data packet, the data packet including the data signal.

34. A method for controlling at least one target device, comprising:

(a) obtaining a first address and a second address from a first device;

(b) providing the first and second addresses to a command device;

(c) providing a message, located at the first address to the first device using the command device, the message including the second address;

(d) transmitting the message, located at the first address, to a second device;

(e) extracting the second address from the message using the second device;

(f) storing the second address using a memory unit;

(g) providing a command signal and a data signal to the first device;

(h) transmitting the command signal, located at the second address, to the second device;

(i) controlling the at least one target device using the command signal;

(j) transmitting the data signal to the second device;

(k) providing the data signal to an output device by the second device; and

(l) providing, by the output device, an output as a function of the data signal while the at least one target device is controlled using the command signal.

35. The method according to claim 34, wherein the message includes a predetermined data of the command and data signals.

36. The method according to claim 35, wherein the at least one target device selects the command signal as a function of the predetermined data.

Claim 37 (Canceled)

38. A computer-readable storage medium storing a set of instructions, the set of instructions capable of being executed by a processor to implement a control operation of at least one target device on at least one computer system, the method comprising:

(a) providing a command signal and a data signal to a first device, the command signal being associated with the data signal;

(b) converting the command and data signals to a transmission signal using the first device;

(c) transmitting the transmission signal to a second device;

(d) extracting the command signal from the transmission signal using the second device; and

(e) controlling the at least one target device as a function of the command signal while an output device provides an output as a function of the data signal to which the command signal is associated.

Claims 39-40 (Canceled)

41. A communication and control system, comprising:

an input device generating a data signal;

a command device generating a command signal associated with the data signal;

a first device receiving the data and the command signal associated with the data signal, the first device generating a transmission signal including the data signal and the associated command signal;

a second device receiving the transmission signal and extracting the data signal and the associated command signal from the transmission signal;

an output device receiving the data signal from the second device; and

at least one target device controlled automatically as a function of the associated command signal while the output device provides an output as a function of the data signal.

42. The system according to claim 41, wherein the data signal includes particular content, and the associated command signal is associated with the particular content and wherein the output device renders the particular content while the at least one target device is controlled as a function of the associated command signal, and wherein the particular content includes at least one of audio data and video data.

43. The system according to claim 41, wherein the at least one target device is controlled

automatically as a function of the associated command signal and without user intervention while the output device provides the output.

44. The system according to claim 41, wherein the output device and the at least one target device are separate devices.

45. A method for controlling a target device, comprising:

receiving a data signal including content;

receiving a command signal, the command signal including commands, associated with the content, for controlling the target device; and

controlling the target device as a function of the commands while rendering the content associated therewith via an output device.

46. The method according to claim 45, wherein the content includes at least one of audio and video.

47. The method according to claim 45, wherein the commands are linked to the content so that the commands are available for accessing to control the target device each time the content associated therewith is rendered.

48. The method according to claim 45, wherein the controlling step includes controlling the target device as a function of the commands while rendering the content associated therewith via the output device, the output device being a separate device from the target device.